

REMARKS

The Office Action dated July 5, 2005, has been received and carefully considered. In this response, claims 2, 3, 6-8, 9, 11, 14, and 15 have been amended. Entry of the amendments to claims 2, 3, 6-8, 9, 11, 14, and 15 is respectfully requested. Reconsideration of the outstanding rejection in the present application is also respectfully requested based on the following remarks.

I. THE ANTICIPATION REJECTION OF CLAIMS 2-15

On page 2 of the Office Action, claims 2-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Czech et al. (U.S. Patent No. 5,180,275). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the

claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

The Examiner asserts that Czech et al. teaches the present invention as claimed. Specifically, the Examiner asserts that Czech et al. discloses a lifting apparatus for transferring a user to and from a seat of a vehicle, the lifting apparatus (10; Figs. 2-6) comprising: a mounting and support assembly (22, 23) for attachment to a chassis of the vehicle; an extension arm assembly supported by the mounting and support assembly such that the extension arm is located substantially behind the vehicle seat (21); and a support member (8) attached to the extension arm assembly for supporting a modular and removable transfer seat (wheelchair). However, it is respectfully submitted that the Examiner still fails to consider several recited features of the claimed invention. For instance, the Examiner fails to show how Czech et al. teaches a transfer seat supported by the extension arm assembly for directly supporting a user seated thereon, as claimed. The Examiner asserts that Czech et al. teaches this recited feature by showing a wheelchair on a platform 18. This alleged teaching by Czech et

al. clearly differs from the claimed transfer seat assembly supported by the extension arm assembly for directly supporting a user seated thereon. However, to emphasize this difference, Applicant has amended claims 2 and 8 to recite a transfer seat assembly directly coupled to the extension arm assembly for directly supporting a user seated thereon. It is respectfully submitted that Czech et al. does not claim, disclose, or even suggest such a feature. Claims 2 and 8 should therefore be allowable for at least this reason.

The Examiner also fails to show how Czech et al. teaches an extension arm assembly that is operative to raise and lower a transfer seat such that the transfer seat may be positioned substantially adjacent to and level with a sitting portion of the vehicle seat, as claimed. Indeed, the Examiner fails to even mention how Czech et al. might show or even suggest this recited feature. Even so, to emphasize this difference, Applicant has amended claims 2 and 8 to recite that the extension arm assembly is operative to raise and lower the transfer seat assembly such that the transfer seat assembly is substantially adjacent to and level with a sitting portion of the vehicle seat when the transfer seat assembly is raised by the extension arm assembly. It is respectfully submitted that Czech et al. does not claim, disclose, or even suggest such a

feature. Claims 2 and 8 should therefore be allowable for at least this reason.

At this point it should be noted that claims 3, 6, 7, 9, 11, 14, and 15 have been amended correspond to the amended language of claims 2 and 8 as discussed above, and to correct an antecedent basis error.

Claims 3-7 and 9-15 are dependent upon one of independent claims 2 and 8. Thus, since independent claims 2 and 8 should be allowable as discussed above, claims 3-7 and 9-15 should also be allowable at least by virtue of their dependency on independent claims 2 and 8. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claims 3 and 11 recite that the transfer seat assembly comprises: a support member directly coupled to the extension arm assembly; and a transfer seat directly coupled to the support member for directly supporting a user seated thereon. It is respectfully submitted that these claimed features are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. Also, claims 5 and 13 recite that the transfer seat pivots about a substantially horizontal axis when the support member is in its substantially horizontal position and about a substantially vertical axis when the support member is in its substantially

vertical position, such that the transfer seat pivots between a substantially horizontal seating position and a substantially vertical stowed position when the support member is in its substantially horizontal position. It is respectfully submitted that these claimed features are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. Further, claims 6 and 14 recite that the transfer seat is modular and removable. It is respectfully submitted that this claimed feature is not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. Further, claims 7 and 15 recite that the vehicle seat is located directly adjacent to a doorway of the vehicle. It is respectfully submitted that this claimed feature is not claimed, disclosed, or even suggested by the cited references taken either alone or in combination.

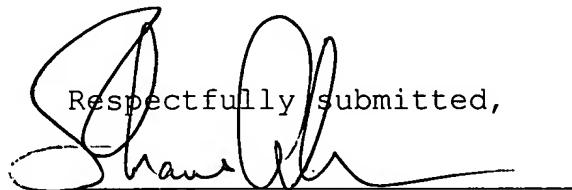
In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 2-15 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by

Patent Application
Attorney Docket No.: ACCESS-008XX

telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.


Respectfully submitted,

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